IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

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CHRISTOPHER FEKOS,

: Case No. 2:07-cr-116-KRG-KAP : (Case No. 2:13-cv-1095-KRG-KAP)

Movant

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Memorandum Order

Movant Christopher Fekos filed a Motion for De Novo Review at docket no. 79 that was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C.§ 636(b)(3), and Local Civil Rule 72.

The Magistrate Judge filed a Report and Recommendation on March 2, 2016, docket no. 81, recommending that the motion be dismissed for lack of jurisdiction without prejudice to filing a motion in the Court of Appeals for authorization to raise his claim of new evidence in a second or successive motion to vacate. See 28 U.S.C.§ 2244(b) and 28 U.S.C.§ 2225(h)(1).

The parties were notified that pursuant to 28 U.S.C.§ 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. Movant filed timely objections, docket no. 83, that supplement the merits of the petition but do not address the jurisdictional issue.

After <u>de novo</u> review of the record, the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 17th day of March, 2016, it is

ORDERED that the Motion for De Novo Review at docket no. 79 is dismissed without prejudice to applying in the Court of Appeals for authorization to file a second or successive motion to vacate. The government's motion to dismiss at docket no. 80 is denied as moot. The Report and Recommendation is adopted as the opinion of the Court.

BY THE COURT:

KIM R. GIBSON,

UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF